

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the
Commission's Own Motion to Evaluate Existing
Practices and Policies and to Revise the General
Rate Case Plan for Class A Water Companies.

Rulemaking 03-09-005

**ADMINISTRATIVE LAW JUDGE'S RULING SETTING OUT NEXT
PROCEDURAL STEPS**

Summary

This ruling finds that the most efficient way to resolve the pending issues is to provide the parties with a comprehensive proposal, followed up by further review and comment from the parties.

Background

On September 4, 2003, the Commission opened this proceeding to update the Water Rate Case Plan (RCP) last adopted in 1990. The purpose of the RCP is to provide Class A water utilities with: (1) rate case application content guidance, (2) a filing schedule for Class A water utilities, and (3) a Commission review and evaluation timeline. The impetus for this updating is found in §455.2,¹ which states that the Commission "shall establish a schedule to require every water corporation . . . to file an application . . . every three years." The current RCP does not provide for a mandatory rate case filing schedule.

¹ All citations are to the Public Utilities Code unless otherwise indicated.

The Commission attached a draft revised rate case plan to its September 4, 2003, decision. That draft contained revised timelines for filing as well as setting out numerous changes in the content of rate case applications necessary to meet the requirements of §455.2.

The Commission's Water Division held workshops with the parties both before and after issuing the OIR. The parties filed comments and reply comments. One predominant theme was that the Commission should provide the parties further opportunities for input prior to making any decisions. Consistent with the parties' request, this ruling sets out the next procedural steps and addresses the issue of utilities anticipating filing General Rate Cases (GRC) in January 2004.

Compliance with § 455.2 Requires More than Scheduling Changes

Many parties requested that the Commission separate the issues relating to the schedule of utility GRCs from the substantive issues regarding the content of the GRC applications. Such separation, however, is unworkable. As one example, absent a decision on application content, Office of Ratepayer Advocates (ORA) will have no standards under which to evaluate a Proposed Application for completeness. Adopting a schedule for applications whose content has not yet been determined could set the stage for numerous disputes and undermine the Commission's ability to comply with §455.2.

The comments show that fundamental changes are needed to enable the Commission to comply with the three-year GRC schedule required by §455.2. Such a schedule drastically diminishes the Commission's flexibility in conducting its review of GRC applications. Gone is the option of rescheduling an application to a future date, because all future dates are fully booked pursuant to the three-year schedule. Similarly, a procedural schedule for a particular GRC

cannot be extended because other GRC applications will be scheduled for filing. In the workshops and comments, this phenomenon is referred to as the “domino effect.”

To avoid the domino effect, each GRC must be filed and processed in accord with the schedule. To achieve this goal, the applications and process must be simplified and streamlined. As stated by ORA: “The revised Proposed RCP makes certain essential changes to current practice that offer the only practical means for the Commission and ORA to meet this increased workload.”

In the draft RCP attached to the OIR, staff identified several opportunities for simplification and made proposals. These proposals were discussed in the workshops and comments. Many of the comments ignored the critical need for simplification, consisted only of criticism of staff’s proposal, and made no alternative proposal. Such comments reflected the unrealistic assumption that the status quo is an option. The statute and ORA’s comments show that GRC application content and processes must change to enable the Commission to meet the requirements of § 455.2. The objective of the next procedural steps will be to enable parties to present alternative means of achieving these goals.

Next Procedural Steps

Some comments stated that the parties have not yet discussed all issues to be addressed in this proceeding, *see e.g.*, California Water Services Company Comments at page 6 (interim rates), and nearly all parties requested additional procedural opportunities.

In consultation with the assigned Commissioner and the Water Division, I have determined that the most efficient way to address the issues in this proceeding is to provide the parties with a comprehensive proposal, followed up further review and comment by the parties.

In the particular facts and procedural posture of this case, the best means to put forth a comprehensive proposal to the parties is to issue a proposed decision. Such a decision will allow the parties to see the current view on the issues and allow the parties to focus their comments on illuminating deficiencies in the current views as well as proposing superior alternatives. The proposed decision will be mailed substantially in advance of the intended Commission meeting date.² The parties will be invited to participate in workshops, and submit written comments and reply comments. Oral argument before the assigned Commissioner and me will also be scheduled.

Utilities Anticipated to File GRCs in January 2004

ORA stated that in the first quarter of 2004 it will be actively involved in five GRCs, all of which will be in the hearing and briefing stage. ORA also stated that it needed time to train its staff to fully perform its new role in the RCP. ORA concluded by recommending that the currently anticipated January 2004 filings be deferred to January 2005, and that it would work with the affected utilities to propose a rate escalation process.

ORA's proposal is a reasonable means of addressing this scheduling problem. It will enable this case to proceed more in line with the pace advocated by most parties.

² The current targets are to mail the Proposed Decision in December, hold workshops and receive comment in January, and have oral argument in February, with a final decision in February or March. The final schedule will accompany the Proposed Decision.

Therefore, **IT IS RULED** that the procedural steps set out above are adopted.

Dated November 26, 2003, at San Francisco, California.

/s/ Maribeth A. Bushey
Maribeth A. Bushey
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling on all parties of record in this proceeding or their attorneys of record.

Dated November 26, 2003, at San Francisco, California.

/s/ Antonina V. Swansen
Antonina V. Swansen

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, *e.g.*, sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.